

Notice of Allowability

Application No.

09/509,306

Examiner

Samuel W Liu

Applicant(s)

REID ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6-7-2004.
2. ☒ The allowed claim(s) is/are 1,2,6,7 and 34.
3. ☒ The drawings filed on 23 March 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 11-1-2000
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 7-8-2004.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

This Office action is in response to applicants' amendments filed 7 June 2004, which amends claims 1-2, 4-7, 34 and 36, and cancels claims 3, 8, 12-33 and 38-51. The amendment indicated above has been entered. Also, Applicants' request (filed 7 June 2004) for extension of time of three months has been entered.

The pending claims 1-2, 4-7, 9-11 and 34-37 are therefore examined in this Office action.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Y. Rocky Tsao on July 8, 2004. Applicants agree the Examiner proposed amendment to claims 1-2 and 34, and agree to cancel claims 4-5, 10-11 and 35-37 without prejudice (see below).

Amendments to the claim:

The pending claims 1-2, 4-7, 9-11 and 34-37 have been amended or canceled as follows. Please replace the previous claims with the claim shown below.

Claim 1 (*Twice amended*): A method of treating a patient to stimulate chondrocyte proliferation in vivo which comprises the step of ~~increasing the active concentration of amylin activity within said patient by~~ administering to said patient amylin in an amount effective to stimulate chondrocyte proliferation.

Claim 2 (*Twice amended*): A method of treating a patient to stimulate cartilage growth or repair in vivo through stimulation of chondrocyte proliferation which comprises the step of ~~increasing the active concentration of amylin activity within said patient~~ administering to said patient amylin in an amount effective to stimulate chondrocyte proliferation.

Claims 4-5 and 9-11 are deleted.

Claim 34 (*Twice amended*): after "comprising amylin (18), add "(SEQ ID NO:2)".

Claims 35, 36 and 37 are deleted.

Amendments to the specification:

Insert the following paragraph before the "Description" paragraph:

This application is a 371 of PCT/NZ98/00145 filed 25 September 1998, which claims foreign priority benefit of the filing date under 35 U.S.C. 119 of New Zealand patent No. 328853, filed 29 September 1998.

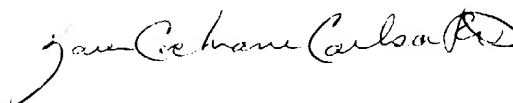
In abstract is amended as follows (in one paragraph):

The present invention relates to new therapeutic use of amylin as agent which stimulates chondrocyte proliferation and which therefore have utility in the treatment of cartilage disorders and/or cartilage mediated bone growth.

Conclusion: Claims 1-2, 6, 7 and 34 are allowable over the art of record.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 9:00 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jon Weber, can be reached at (571) 272-0925. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.



KAREN COCHRANE CARLSON, PH.D.
PRIMARY EXAMINER

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A handwritten signature in black ink, appearing to read 'S. Liu', with a long horizontal stroke extending to the right.

Samuel W. Liu, Ph.D.
Art Unit 1653, Examiner
July 8, 2004